

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

THOMAS K. MILLS,

Plaintiff,

v.

ZACHERY JONES, et al.,

Defendants.

Case No. 1:23-cv-00134-EPG (PC)

ORDER FOR PLAINTIFF TO SUBMIT
APPLICATION TO PROCEED IN FORMA
PAUPERIS OR PAY FILING FEE WITHIN 45
DAYS

Plaintiff is a state prisoner proceeding *pro se* in this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff has not paid the \$402.00 filing fee or submitted an application to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915.¹

Accordingly, IT IS HEREBY ORDERED that:

Within forty-five (45) days of the date of service of this order, Plaintiff shall submit the attached application to proceed *in forma pauperis*, completed and signed, or in the alternative, pay the \$402.00 filing fee for this action.

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¹ Plaintiff did submit “Case Law – Concerning Filing Fee.” (ECF No. 2). Plaintiff cites to Owens v. Keeling, 461 F.3d 763 (6th Cir. 2006), which found that the plaintiff did “not have to pay a second filing fee for refiling his complaint after it was initially dismissed without prejudice for failure to exhaust.” Id. at 772. However, the Owens decision was based on the exhaustion procedures in the Sixth Circuit, which included “heightened pleading standards.” Id. at 772-73. Thus, “*Owens* is inapplicable in this case. Unlike the plaintiff in *Owens*, here plaintiff was not subject to the heightened-pleading standard the Sixth Circuit was then requiring prisoners to meet by pleading and demonstrating exhaustion.” Slaughter v. Carey, 2007 WL 1865501, at *1 (E.D. Cal. June 28, 2007). See also Perkins v. Hartwick, 2022 WL 17415070, at *2 (E.D. Cal. Dec. 5, 2022).

